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WALKING ON EGGSHELLS IN THE WORKPLACE: DENYING WORKERS' COMPENSATION LIABILITY USING THE EMPLOYEE KNOWLEDGE STANDARD IN *RAMIREZ-TRUJILLO v. QUALITY EGG, L.L.C.*

CHRISTOPHER CATALDO*

Abstract: On April 15, 2016, the Iowa Supreme Court held that employers in workers' compensation cases could deny liability for medical expenses incurred by employees even if they did not give notice to the employee that expenses were no longer authorized. Employers can avoid liability by demonstrating that the employee knew or reasonably should have known that such expenses were no longer authorized at the time the employee incurred them. In reaching this decision, the Iowa Supreme Court reversed two lower court decisions and the workers' compensation commissioner. Judge Daryl L. Hecht's dissent argued against the majority's new "employee knowledge" standard, reasoning that it is incompatible with the clear language of the worker's compensation statute and would therefore create confusion and uncertainty in workers' compensation cases by upsetting the balance of interests between employers and employees that the legislature set. This Comment argues in favor of the dissent's proposed approach because the employee knowledge standard increases the already substantial advantages employers enjoy over employees in workers' compensation cases and is fundamentally unfair towards Iowa workers, the principal population the statute was designed to protect and benefit.

INTRODUCTION

On August 1, 2009, Deanna Ramirez-Trujillo slipped on an egg on the floor at her workplace in Clarion, Iowa and injured her back, triggering a period of chronic pain that lasted more than two years and ultimately cumulated in surgery for a herniated disk.¹ After Ms. Ramirez-Trujillo's slip, her employer, Quality Egg, L.L.C. ("Quality Egg"), acknowledged her injury and authorized her to receive treatment pursuant to Iowa Code § 85.27.² Quality Egg author-

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¹ Ramirez-Trujillo v. Quality Egg, L.L.C. (*Ramirez-Trujillo III*), 878 N.W.2d 759, 764, 765, 766 (Iowa 2016).

² See *id.* at 764. Section 85.27, as part of the larger workers' compensation provisions of Chapter 85, outlines the rights and duties of employers in workers' compensation claims. IOWA CODE § 85.27 (2007). The code requires employers to pay the medical expenses of injured employees, but allows the employer to select the care provider. See *id.* § 85.27(4).

ized and reimbursed care for Ms. Ramirez-Trujillo from the time of her slip through September 2009.³ From May 2010 through April 2011, she sought additional treatment for injuries to her back, including multiple surgeries.⁴ On October 13, 2010, Ms. Ramirez-Trujillo filed a petition with the workers' compensation commissioner seeking workers' compensation benefits, penalty benefits, and reimbursement for the medical expenses she incurred from May 2010 through April 2011.⁵ Quality Egg stipulated that it authorized her initial medical expenses, but argued it did not authorize expenses incurred during the latter period.⁶

The deputy workers' compensation commissioner issued an arbitration decision in favor of Quality Egg, finding that Ms. Ramirez-Trujillo's condition after September 30, 2009 was not the result of her August 2009 workplace injury and therefore her employer was not liable for any medical expenses incurred after September 30, 2009.⁷ Ms. Ramirez-Trujillo appealed to the workers' compensation commissioner, who affirmed the factual findings of the arbitration decision.⁸ However, the commissioner awarded Ms. Ramirez-Trujillo the reimbursement for medical expenses for the disputed period because Quality Egg failed to notify her it was not authorizing further treatment.⁹ The commissioner based this decision on Iowa Code section 85.27(4) ("Section 85.27(4)"), which requires employers to reimburse medical expenses until they provide notice to the employee that they no longer authorize them.¹⁰

³ *Ramirez-Trujillo III*, 878 N.W.2d at 766; see Brief of Appellees at 40, *Ramirez-Trujillo III*, 878 N.W.2d 759 (Iowa 2016) (No. 14-0640), 2014 WL 11512938, at *40.

⁴ *Ramirez-Trujillo III*, 878 N.W.2d at 765, 766. On August 4, 2010, Ms. Ramirez-Trujillo underwent a decompression surgery performed by Dr. Mark Palit to repair a protruding disk along her lumbar spine, followed by an additional revision on March 23, 2011. *Id.* at 765–66.

⁵ *Id.* at 766. Ms. Ramirez-Trujillo petitioned for medical expenses "[to the present] and running." Appellant's Brief and Argument, *Ramirez-Trujillo III*, 878 N.W.2d 759 (Iowa 2016) (No. 14-0640), 2014 WL 11512939, at *7. Injured workers are entitled under the statute to receive weekly compensation benefits based on their usual earnings; if an employer fails to provide these benefits the workers' compensation commissioner has the authority to impose additional payments as a penalty. See IOWA CODE § 86.13.

⁶ *Ramirez-Trujillo III*, 878 N.W.2d at 766. Quality Egg accepted liability for and paid Ms. Ramirez-Trujillo's medical expenses from August 2009 through September 30, 2009. *Id.*

⁷ *Id.* at 767. The first stage of the process for an injured employee to challenge an employer's failure to provide benefits is an administrative hearing presided by a deputy workers' compensation commissioner. See IOWA CODE § 86.17.

⁸ *Ramirez-Trujillo III*, 878 N.W.2d at 767.

⁹ *Id.*

¹⁰ *Id.* The statutory language at issue is as follows:

For purposes of this section, the employer is obliged to furnish reasonable services and supplies to treat an injured employee, and has the right to choose the care. If the employer chooses the care, the employer shall hold the employee harmless for the cost of care until the employer notifies the employee that the employer is no longer authorizing all or any part of the care and the reason for the change in authorization.

Quality Egg then sought judicial review, where the district court affirmed the commissioner's decision regarding the non-causal relationship to her work injury, but also found the commissioner erred in interpreting Section 85.27(4).¹¹ As such, the district court held that Quality Egg was not liable for expenses incurred after September 30, 2009.¹² Ms. Ramirez-Trujillo appealed the decision to the Court of Appeals, which upheld the commissioner's factual findings but reversed the district court's interpretation of Section 85.27(4), holding that the language of the statute requires an employer to give the employee notice that medical expenses were no longer authorized.¹³ Because Quality Egg did not provide Ms. Ramirez-Trujillo such notice, it was liable for the medical expenses.¹⁴ Both parties sought further review from the Iowa Supreme Court.¹⁵

The Iowa Supreme Court, on April 15, 2016, affirmed in part, reversed in part, and remanded the case with instructions.¹⁶ The only issue the court chose to review was the proper interpretation of Section 85.27(4).¹⁷ The court held that an employer may prove it is not liable for the cost of medical care by demonstrating that it gave the employee actual notice of a change in authorization or by demonstrating an employee knew or reasonably should have known either that the care received was unrelated to the condition for which the care was originally authorized or that the employer no longer authorized the care the employee received.¹⁸ The dissent would not have allowed for the latter "employee knowledge" standard, arguing that it conflicted with the clear language of the statute, created uncertainty and confusion in workers' compensation cases, and upset the balance between the rights of employees and employers set by the legislature.¹⁹

Part I of this Comment summarizes the factual and procedural history of *Ramirez-Trujillo*. Part II discusses the majority's decision to create a new standard by which employers can avoid liability for authorized medical expenses. Finally, Part III agrees with the dissent that the majority's standard is

¹¹ *Ramirez-Trujillo III*, 878 N.W.2d at 767–68.

¹² *Id.*; *Ramirez-Trujillo v. Quality Egg, L.L.C. (Ramirez-Trujillo I)*, No. CV045886, at 18 (Iowa Dist. Ct. for Polk Cnty. Dec. 31 2013), *aff'd in part, rev'd in part*, 2015 WL 576130 (Iowa Ct. App. Feb. 11, 2015), *aff'd in part, vacated in part*, 878 N.W.2d 759 (Iowa 2016).

¹³ *Ramirez-Trujillo v. Quality Egg, L.L.C. (Ramirez-Trujillo II)*, No. 14-0640, 2015 WL 576130, at *3, *5, *6 (Iowa Ct. App. Feb. 11, 2015) (ruling district court erred in interpreting section 85.27(4)), *aff'd in part, vacated in part*, 878 N.W.2d 759 (Iowa 2016).

¹⁴ *See id.*

¹⁵ *Ramirez-Trujillo III*, 878 N.W.2d at 768.

¹⁶ *Id.* at 779. The court remanded the case to the district court with instructions to remand the case to the workers' compensation commissioner for further proceedings consistent with the opinion. *Id.*

¹⁷ *Id.* at 768. The Iowa Supreme Court retains discretion as to what issues it chooses to review on appeal. *See id.*; *Gits Mfg. Co v. Frank*, 855 N.W.2d 195, 197 (Iowa 2014).

¹⁸ *Ramirez-Trujillo III*, 878 N.W.2d at 778.

¹⁹ *Id.* at 781, 782, 783.

inappropriate as it contradicts established statutory language, upsets the balance of protected interests in favor of employers, and is unfair towards the critical population the statute is designed to protect—workers.

I. FROM THE EGG ON THE FLOOR TO THE IOWA SUPREME COURT

On August 1, 2009, Deanna Ramirez-Trujillo slipped on an egg on the floor at her workplace at Quality Egg, L.L.C in Clarion Iowa and injured her back.²⁰ Quality Egg acknowledged the injury and authorized her to receive care at the Wright Medical Center, a nearby medical facility.²¹ Between August and September of 2009, Ms. Ramirez-Trujillo received prescription medications, transcutaneous electrical nerve stimulation, and physical therapy to treat her injury.²² At each of her appointments with a physician assistant, Ms. Ramirez-Trujillo signed an authorization form to release her medical records to Quality Egg and its insurer.²³ On September 30, 2009, a physician assistant at Wright Medical Center released Ms. Ramirez-Trujillo to full duty without any work restrictions, indicating that her back strain was resolving and that she required no follow-up care.²⁴

Unfortunately, Ms. Ramirez-Trujillo's back problems did not resolve and throughout the next several months she returned to Wright Medical Center multiple times seeking additional treatment.²⁵ In June 2010, an x-ray of Ms. Ramirez-Trujillo's lumbar spine showed disc space narrowing at L5-S1, a disk located in her lower back.²⁶ The doctor's notes indicated that Ms. Ramirez-Trujillo expressly stated "this is not workman's comp."²⁷ At a follow up ap-

²⁰ Ramirez-Trujillo v. Quality Egg, L.L.C. (*Ramirez-Trujillo III*), 878 N.W.2d 759, 764, 765, 766 (Iowa 2016). Ms. Ramirez-Trujillo caught herself before falling to the floor, but nevertheless injured her back. *Id.*

²¹ *Id.*

²² *Id.* Transcutaneous Electrical Nerve Stimulation is a method of pain management and physical therapy whereby a small electrical current is applied to an injured body part. See *Transcutaneous Electrical Nerve Stimulation (TENS)—Topic Overview*, WEBMD, <http://www.webmd.com/pain-management/tc/transcutaneous-electrical-nerve-stimulation-tens-topic-overview> [<https://perma.cc/PV6E-NTDU>].

²³ *Ramirez-Trujillo III*, 878 N.W.2d at 764. Ms. Ramirez-Trujillo did not receive or sign authorization forms at her physical therapy appointments. *Id.* Employees are required by law to release information about their medical treatment to their employers. IOWA CODE § 85.27(2) (2007).

²⁴ *Ramirez-Trujillo III*, 878 N.W.2d at 764.

²⁵ See *id.* at 764, 765. On December 26, 2009, Ms. Ramirez-Trujillo sought treatment for lower back pain at Wright Medical Center; she received an injection and prescriptions for several medications before returning to work on December 29. *Id.* at 764. On May 1, 2010, Ms. Ramirez-Trujillo again received care at the Wright Medical Center for her lower back pain, receiving injections and prescriptions for several medications. *Id.* at 765. Throughout the next several weeks, Ms. Ramirez-Trujillo continued to receive follow-up care from a physician assistant and a doctor, and she began physical therapy. *Id.*

²⁶ *Id.* Upon evaluating the x-ray and MRI, Dr. Palit diagnosed Ms. Ramirez-Trujillo with a herniated disk. Brief of Appellees, *supra* note 3, at 17.

²⁷ *Ramirez-Trujillo III*, 878 N.W.2d at 765.

pointment Dr. Mark Palit, a surgeon, gave a steroid injection.²⁸ Dr. Palit's notes explained that Ms. Ramirez-Trujillo said her August 2009 slip injury had resolved with conservative care.²⁹ On August 4, 2010, Dr. Palit performed decompression surgery to address Ms. Ramirez-Trujillo's herniated disk.³⁰

Ms. Ramirez-Trujillo filed a notice and petition with the workers' compensation commissioner against her employer and its insurer on October 13, 2010 seeking workers' compensation benefits, penalty benefits, and medical expenses that she incurred from May 2010 through April 2011.³¹ Quality Egg stipulated that Ms. Ramirez-Trujillo sustained an injury during the course of her employment on August 1, 2009 and that it authorized treatment and medical expenses through September 30, 2009.³² Quality Egg argued that it did not authorize the expenses incurred between May 2010 and April 2011, and it further stated that said expenses did not have a causal connection to her workplace injury.³³

At an arbitration hearing, both Ms. Ramirez-Trujillo and Quality Egg presented expert testimony from medical experts and lay persons as to the causal link, or lack thereof, between Ms. Ramirez-Trujillo's August 2009 slip and the medical expenses she incurred between May 2010 and April 2011.³⁴ After the hearing, Deputy Workers' Compensation Commissioner Michelle McGovern issued an arbitration decision in favor of Quality Egg, finding that Ms. Ramirez-Trujillo's condition after September 30, 2009 was not causally related to her August 2009 work injury and therefore Quality Egg was not liable for the medical expenses she incurred from May 2010 through April 2011.³⁵ Ms. Ramirez-Trujillo subsequently appealed to the workers' compensation commissioner, who affirmed the arbitration decision that there was no causal link between the August 2009 workplace injury and the expenses incurred after

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.* On March 23, 2011, Dr. Palit performed a revision of the decompression surgery after Ms. Ramirez-Trujillo indicated she was still experiencing severe pain. *Id.* at 765–66; Brief of Appellees, *supra* note 3, at 17.

³¹ *Ramirez-Trujillo III*, 878 N.W.2d at 766. Ms. Ramirez-Trujillo did not seek reimbursement for the expenses incurred during December 2009. *Id.* at 766 n.2.

³² *Id.* at 766; see Brief of Appellees, *supra* note 3, at 39–40.

³³ *Ramirez-Trujillo III*, 878 N.W.2d at 766; Brief of Appellees, *supra* note 3, at 39–40.

³⁴ *Ramirez-Trujillo III*, 878 N.W.2d at 766. Ms. Ramirez-Trujillo submitted a written evaluation and report prepared by Dr. Robin Epp, a certified independent medical examiner, who concluded that Ms. Ramirez-Trujillo's condition and treatment after September 30, 2009, was causally related to her August 2009 workplace injury. *Id.* Ms. Ramirez-Trujillo's and other testimony by lay witnesses supported Dr. Epp's opinion. *Id.* Quality Egg submitted a written medical opinion prepared by Dr. Donna Bahls, who concluded that Ms. Ramirez-Trujillo's workplace injury did not contribute to her condition after September 30, 2009. *Id.* Quality Egg also introduced testimony of two employees who testified hearing Ms. Ramirez-Trujillo state she had slipped or fallen on some stairs at home. *Id.* at 767.

³⁵ *Id.*; Brief of Appellees, *supra* note 3, at 5.

September 30, 2009.³⁶ The commissioner nonetheless awarded Ms. Ramirez-Trujillo the expenses incurred from May 2010 through April 2011 because Quality Egg failed to notify her it was not authorizing further treatment.³⁷ The commissioner interpreted Section 85.27(4) to require an employer to cover the cost of authorized care unless the provider notifies the employee that care is no longer authorized.³⁸

Quality Egg sought judicial review in the Iowa District Court for Polk County of the commissioner's ruling that it must reimburse Ms. Ramirez-Trujillo for medical expenses that she incurred from May 2010 through April 2011.³⁹ Judge Scott D. Rosenberg affirmed the factual findings of the agency as to the lack of a causal link between the August 2009 workplace injury and the post-September 2009 medical expenses, but also found that the commissioner erroneously interpreted Section 85.27(4).⁴⁰ Judge Rosenberg found that Quality Egg reasonably believed Ms. Ramirez-Trujillo recovered from her workplace injury and the company did not receive notice that she was seeking further care.⁴¹ Therefore, the court determined Quality Egg was not liable for the medical expenses Ms. Ramirez-Trujillo incurred after September 30, 2009.⁴²

Ms. Ramirez-Trujillo appealed the district court's judgment to the Iowa Court of Appeals.⁴³ The court of appeals upheld the portion of the district court judgment affirming the factual findings of the commissioner, but found the district court erroneously interpreted Section 85.27(4).⁴⁴ The court of appeals held that the statutory language required an employer to provide notice to an employee that care was no longer authorized, and because Quality Egg did not do so, it was liable for Ms. Ramirez-Trujillo's expenses.⁴⁵ Both Quality Egg

³⁶ *Ramirez-Trujillo III*, 878 N.W.2d at 767.

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id.*; Brief of Appellees, *supra* note 3, at 49. "Ramirez-Trujillo asserted the agency erred in failing to comply with Iowa Code section 17A.16(1) and in applying legal standards on the issue of causation." *Ramirez-Trujillo III*, 878 N.W.2d at 768; *see also* Brief of Appellees, *supra* note 3, at 20 (explaining Ramirez-Trujillo's argument). The district court rejected both these arguments. *See Ramirez-Trujillo III*, 878 N.W.2d at 768.

⁴⁰ *See Ramirez-Trujillo v. Quality Egg, L.L.C. (Ramirez-Trujillo I)*, No. CV045886, at 15, 17 (Iowa Dist. Ct. for Polk Cnty. Dec. 31, 2013) *aff'd in part, rev'd in part*, 2015 WL 576130 (Iowa Ct. App. Feb. 11, 2015), *aff'd in part, vacated in part*, 878 N.W.2d 759 (Iowa 2016).

⁴¹ *Id.* at 17, 18.

⁴² *Id.* at 18.

⁴³ *Ramirez-Trujillo III*, 878 N.W.2d at 768.

⁴⁴ *Id.*; *Ramirez-Trujillo v. Quality Egg, L.L.C. (Ramirez-Trujillo II)*, No. 14-0640, 2015 WL 576130, at *5, *6 (Iowa Ct. App. Feb. 11, 2015) (ruling district court erred interpreting section 85.27(4)), *aff'd in part, vacated in part*, 878 N.W.2d 759 (Iowa 2016).

⁴⁵ *Ramirez-Trujillo II*, 2015 WL 576130, at *5, *6.

and Ms. Ramirez-Trujillo sought further review from the Iowa Supreme Court.⁴⁶

The Iowa Supreme Court upheld the judgments of the lower courts' determination as to the lack of a causal link between Ms. Ramirez-Trujillo's August 2009 workplace injury and her condition after September 30, 2009.⁴⁷ The court reversed the holdings of the court of appeals and the district court as to the interpretation of Section 85.27(4).⁴⁸ The court held that Section 85.27(4) requires employers to hold employees harmless for authorized medical expenses up to the time when the employer notifies the employee that it is no longer authorizing care.⁴⁹ The court held, however, that an employer could avoid liability for an employee's medical expenses by proving by a preponderance of the evidence that "the employee knew or reasonably should have known that either the care was unrelated to the medical condition which the claim for workers' compensation benefits was based or that the employer no longer authorized the care the employee received at the time the employee received it."⁵⁰ Accordingly, the court remanded the case to the district court with instructions to remand the case to the commissioner for further proceedings consistent with the judgment.⁵¹

In his dissent, Judge Daryl L. Hecht opposed the creation of the "employee knowledge" standard, and argued that employers should not be able to avoid liability for these types of expenses unless they provided actual notice to the employee that benefits were no longer authorized.⁵² Judge Hecht reasoned the standard was inconsistent with the clear and unambiguous statutory language in Section 85.27(4), and was concerned that the majority's ruling would create confusion in workers' compensation cases and an influx of litigation.⁵³ Furthermore, the dissent argued that the majority's ruling upset the balance between employers and employees carefully set by the legislature.⁵⁴

⁴⁶ *Ramirez-Trujillo III*, 878 N.W.2d at 768. Ms. Ramirez-Trujillo argued that the district court and the workers' compensation commissioner mistakenly concluded that there was not a causal link between the workplace injury and her condition after September 30, 2009. *See* Appellant's Brief and Argument, *supra* note 5, at *47–48.

⁴⁷ *See Ramirez-Trujillo III*, 878 N.W.2d at 779.

⁴⁸ *See id.*

⁴⁹ *Id.* at 771–72.

⁵⁰ *Id.* at 777.

⁵¹ *Id.* at 779.

⁵² *See id.* at 783 (Hecht, J., dissenting).

⁵³ *Id.* at 781, 782, 783.

⁵⁴ *Id.* at 783.

II. THE IOWA SUPREME COURT'S CREATION OF THE EMPLOYEE KNOWLEDGE STANDARD TO AVOID LIABILITY IN WORKERS' COMPENSATION CLAIMS

In *Ramirez-Trujillo III*, the Iowa Supreme Court reversed portions of the decisions of lower courts and the workers' compensation commissioner interpreting Section 85.27(4).⁵⁵ The majority held that employers could avoid liability of medical expenses incurred by an employee seeking treatment for a workplace injury, despite the employer's failure to provide the employee actual notice that care was no longer authorized, if it could demonstrate that the employee knew or reasonably should have known that the employer no longer authorized the care at the time the employee received it.⁵⁶ The court developed this new "employee knowledge" standard because it did not want employees to be able to take advantage of an employer by seeking compensation for expenses incurred when they knew or reasonably should have known the prior authorization was no longer in effect.⁵⁷

In his dissent, Judge Daryl L. Hecht opposed the development of the "employee knowledge" standard.⁵⁸ He argued that the majority's standard contradict the clear language of the statute, created the potential for increased litigation and confusion in workers' compensation cases, and upset the balance of interests between employers and employees fastened by the legislature.⁵⁹ Judge Hecht would allow employers to avoid liability for expenses only if they provided actual notice to the employee that benefits were no longer authorized.⁶⁰

A. The Majority's Construction of an Employee Knowledge Standard

Before examining Section 85.27(4) and its application to the case at hand, the Iowa Supreme Court first considered whether it could provide its own judgment as to the proper interpretation of Section 85.27(4) or if it had to defer to the workers' compensation commissioner.⁶¹ Finding that the legislature did not intend to delegate authority to interpret Section 85.27(4) to the workers' compensation commissioner, the court concluded that it could substitute its own judgment as the proper interpretation.⁶² The court's conclusion that it

⁵⁵ *Ramirez-Trujillo v. Quality Egg, L.L.C. (Ramirez-Trujillo III)*, 878 N.W.2d 759, 779 (Iowa 2016).

⁵⁶ *Id.* at 778.

⁵⁷ *Id.* at 776.

⁵⁸ *See id.* at 780 (Hecht, J., dissenting).

⁵⁹ *Id.* at 781–83.

⁶⁰ *Id.* at 783.

⁶¹ *See id.* at 768, 769 (majority opinion).

⁶² *Id.* at 770. Courts will only defer to an agency interpretation if they are firmly convinced that the legislature actually intended to delegate interpretative power to the agency. *Id.* at 769. Given that

could use its own judgment in interpreting Section 85.27(4) provided the legal basis for creating the “employee knowledge” standard—something not found in the express language of the statute or in the court’s previous workers’ compensation case law.⁶³

The court found that the primary purpose of the workers’ compensation statute is to benefit the worker.⁶⁴ Although the workers’ compensation statute is construed in favor of the employee, the legislature carefully balanced the interests of both employees and employers.⁶⁵ If an employer accepts liability for an employee’s injury and reimburses the employee’s medical expenses, under the statute the employer retains a limited right to choose who provides the medical care.⁶⁶ The notion of the workers’ compensation statute balancing the interests of employers and employee strongly factored into the court’s reasoning as it interpreted the statute.⁶⁷

The proper interpretation of the second sentence of Section 85.27(4) was the key issue before the court and provided the basis for the creation of the “employee knowledge” standard.⁶⁸ The court concluded the first part of the sentence requires employers to hold employees harmless for authorized medical expenses.⁶⁹ The court then found that the statute requires employers to pay for the medical care until it notifies the employee that it is no longer authorizing care.⁷⁰ Accordingly, an employer can avoid liability for expenses by showing it gave the employee actual notice that care was no longer authorized.⁷¹ In explaining its interpretation of Section 85.27(4), the court emphasized that the statute limited employer liability to medical expenses related to the condition

the statutory language did not expressly grant the commissioner the power to interpret section 85.27(4), and given the lack of any substantive terms uniquely within the interpretative expertise of the commissioner, the court was not firmly convinced the legislature intend to delegate authority to interpret the section. *Id.* at 770.

⁶³ *See id.*

⁶⁴ *Id.* The court referred to section 85.27(4) as well the entire workers’ compensation statute contained in chapter 85. *Id.* The Iowa Supreme Court has held that the primary purpose of chapter 85 is to benefit the worker and thus the law is interpreted liberally in favor of the employee. *Id.*; *see also* Griffin Pipe Prods. Co. v. Guarino, 663 N.W.2d 862, 865 (Iowa 2003) (“With respect to the workers’ compensation statute in particular, we keep in mind that the primary purpose of chapter 85 is to benefit the worker and so we interpret this law liberally in favor of the employee.”). Furthermore, the statute seeks to resolve workplace-injury claims efficiently and with minimal litigation. *Ramirez-Trujillo III*, 878 N.W.2d at 770.

⁶⁵ *See Ramirez-Trujillo III*, 878 N.W.2d at 770–71.

⁶⁶ *Id.* at 771. Explaining the employers’ right to choose care, the statute reads “[i]f the employer chooses the care, the employer shall hold the employee harmless for the cost of care until the employer notifies the employee that the employer is no longer authorizing all or any part of the care and the reason for the change in authorization.” IOWA CODE § 85.27(4) (2007).

⁶⁷ *See Ramirez-Trujillo III*, 878 N.W.2d at 771.

⁶⁸ *See id.*

⁶⁹ *Id.*

⁷⁰ *Id.* at 772.

⁷¹ *Id.* at 777.

upon which the claim for workers' compensation was based, stressing that allowing an employer to be liable for any medical expenses incurred by an employee at an authorized medical provider "would lead to absurd results."⁷² These conclusions provided the reasoning from which the court inferred the "employee knowledge" standard.⁷³

The "employee knowledge" standard created a new way for employers to avoid liability even if they did not provide actual notice as required by the statute.⁷⁴ Reasoning that employees should not be able to "take advantage of an employer," the court held that it "simply [did] not believe" Section 85.27(4) affirmatively requires employers to give notice they are no longer authorizing care when the employee knew or reasonably should have known the care was no longer authorized.⁷⁵ The court was concerned about the possibility of an employee being able to go to their authorized medical provider and get reimbursed for medical care that the employer would not have expected to pay either because of a belief that the condition had resolved or because the care was for an unrelated condition.⁷⁶ Therefore, the court concluded that an employer can also avoid liability if it proves by a preponderance of the evidence that the employee knew or reasonably should have known that the employer no longer authorized care at the time the employee received it.⁷⁷

Underlying the court's reasoning was the notion that employer liability for an employee's medical expenses is not unlimited and that there are some situations where fairness requires releasing them from their obligations to cover the costs of medical care.⁷⁸ The court explained that it would be absurd to require employers to be responsible for expenses incurred at authorized medical providers for conditions unrelated to the underlying compensation claim.⁷⁹ Likewise, the "employee knowledge" standard would protect employers from paying where the employee knew that the care was no longer authorized.⁸⁰ Such rules seek to ensure that the balance of interests set by the legislature does not unfairly shift in favor of employees.⁸¹

⁷² *Id.* at 775.

⁷³ *See id.*

⁷⁴ *See id.* at 778.

⁷⁵ *Id.* at 776–77.

⁷⁶ *See id.*

⁷⁷ *Id.* at 777. The court also held an employer could avoid liability if it could prove by a preponderance of the evidence that the employee knew or reasonably should have known the care the employee received was unrelated to the medical condition upon which the claim for workers' compensation was based. *Id.*

⁷⁸ *See id.* at 776.

⁷⁹ *Id.* at 775.

⁸⁰ *Id.* at 777.

⁸¹ *See id.* at 776.

B. The Dissent's Warning of Unfair Employer Advantages

In his dissent, Judge Daryl L. Hecht disagreed with the majority's development of the "employee knowledge" standard to allow employers to avoid liability despite their failure to provide employees with actual notice that they no longer authorized care.⁸² Judge Hecht reasoned that the "employee knowledge" standard was inconsistent with the clear language of the statute.⁸³ He disagreed with the majority that the language of Section 85.27(4) was ambiguous, and thus believed it was unnecessary to search for legislative intent or meaning beyond the express terms of the statute.⁸⁴ According to Judge Hecht, under the clear meaning of the statute, the employer's authorization of care continues until the employer gives the employee actual notice of a change.⁸⁵

In addition to its incompatibility with the statutory language, the "employee knowledge" standard, according to Judge Hecht, is problematic because it creates uncertainty and confusion in workers' compensation cases and will inevitably generate more litigation.⁸⁶ He argued that because the majority's new, malleable standard replaces the bright line rule of notice with a fact-based inquiry, employers will be motivated to litigate more frequently when care is disputed.⁸⁷ Consequently, workers' compensation proceedings will become slower, more expensive, and less predictable, as parties argue over complex fact-based standards.⁸⁸

Furthermore, the dissent objected to the majority's new standard because it upset the balance of interests between employers and employees set by the legislature.⁸⁹ Judge Hecht argued that Section 85.27(4) already provided an employer with the ability to avoid liability by simply giving notice that care was no longer authorized.⁹⁰ Because employers already control who provides care to the employee and have access to all of the related medical records, Judge Hecht argued they are well situated and readily able to give notice of a change in authorization without an "employee knowledge" standard.⁹¹ For Judge Hecht, employers are well equipped to determine if and when authorization should no longer continue, and can easily notify employees of their determinations.⁹²

⁸² See *id.* at 780 (Hecht, J., dissenting).

⁸³ See *id.* at 781.

⁸⁴ See *id.* at 780.

⁸⁵ See *id.* at 781.

⁸⁶ See *id.*

⁸⁷ See *id.* at 781–82.

⁸⁸ See *id.*

⁸⁹ See *id.* at 783.

⁹⁰ See *id.*

⁹¹ See *id.*

⁹² See *id.*

III. THE UNFAIR ADVANTAGE THE EMPLOYEE KNOWLEDGE STANDARD GIVES EMPLOYERS

The majority's creation of the "employee knowledge" standard circumscribes the rights of injured employees standing to benefit from workers' compensation.⁹³ This new standard allows employers to avoid liability by demonstrating an employee knew or should have known that care was no longer authorized without having to provide actual notice, increasing the already substantial advantages employers enjoy over employees in workers' compensation cases and thereby upsetting the balance of interests set by the legislature.⁹⁴ Although the majority's decision is problematic for all Iowa workers, it is especially troublesome for low-income, immigrant, and minority workers, because it adds yet another obstacle to the already substantial challenges they face in workers' compensation cases.⁹⁵ Accordingly, both the purpose of the workers' compensation statute and the interests of Iowa workers are better served by Judge Hecht's approach.⁹⁶

Rather than furthering the primary purpose of the workers' compensation statute, the "employee knowledge" standard adds to the already extensive list of advantages employers enjoy over injured employees in workers' compensation cases.⁹⁷ The majority's "employee knowledge" standard upsets this balance by shifting even more control over the process to the employer.⁹⁸ Prior to the standard, an employer seeking to avoid liability for medical expenses did not face an onerous burden—they simply had to provide notice to the employ-

⁹³ See *Ramirez-Trujillo v. Quality Egg, L.L.C. (Ramirez-Trujillo III)*, 878 N.W.2d 759, 783 (Iowa 2016) (Hecht, J., dissenting).

⁹⁴ See IOWA CODE § 85.27 (2007) (outlining the respective rights and obligations of employers and employees); *Ramirez-Trujillo III*, 878 N.W.2d at 783. Employers retain the rights to choose who provides medical care to an injured employee and have access to all information related to their employee's medical care and treatment. See *Ramirez-Trujillo III*, 878 N.W.2d at 782. An "employee, employer or insurance carrier making or defending a claim for benefits agrees to the release of all information to which the employee, employer, or carrier has access concerning the employee's physical or mental condition relative to the claim and further waives any privilege for the release of the information." IOWA CODE § 85.27(2) (2007). Furthermore, employers have the ability to terminate the reimbursement of medical expenses by providing notice to the employee that medical expenses are no longer authorized. See *Ramirez-Trujillo III*, 878 N.W.2d at 783. These rights are balanced against employees' rights to seek reimbursement for unauthorized care if it was reasonable and beneficial under the circumstances, or to seek alternative care if the authorized care was not offered promptly or was unduly inconvenient or not reasonably suited to treat the injury sustained. See *id.* at 773 (majority opinion).

⁹⁵ See *Ramirez-Trujillo III*, 878 N.W.2d at 773; Allard E. Dembe, *The Social Consequences of Occupational Injuries and Illnesses*, 40 AM. J. INDUS. MED. 403, 412 (2001) (explaining that low-income, immigrant, non-native speakers and other vulnerable populations in the workplace face higher rates of denied workers' compensation claims and less access to medical care).

⁹⁶ See *Ramirez-Trujillo III*, 878 N.W.2d at 783 (Hecht, J., dissenting).

⁹⁷ See *id.* at 783; *supra* note 94 and accompanying text.

⁹⁸ See *Ramirez-Trujillo III*, 878 N.W.2d at 783.

ee that expenses were no longer authorized.⁹⁹ The “employee knowledge” standard makes the already minimal burden for employers even easier, giving them a means of denying liability for medical expenses despite their failure to provide notice.¹⁰⁰

Moreover, the majority’s new standard contradicts its own reasoning.¹⁰¹ The court held that “section 85.27(4) contains no language to suggest the legislature intended to obligate employees to make sure care authorizations remain in force before accepting care” and explained that imposing an “obligation on employees to make sure the employer still authorizes care before accepting it would turn the statute on its head.”¹⁰² The “employee knowledge” standard, however, accomplishes the exact opposite of those objectives.¹⁰³ Abandoning a bright-line rule in favor of a fact-based standard incentivizes more litigation and more time-consuming factual inquiries.¹⁰⁴ Holding employees accountable for what they should have known about the authorization of their care creates the precise obligation the court proclaimed the statute did not require.¹⁰⁵ Furthermore, creating a new opportunity for employers to escape liability in a way that conflicts with the statutory language certainly does not construe the statute to in favor of the worker as the majority itself purports its primary purpose to be.¹⁰⁶

More fundamentally, the “employee knowledge” standard’s focus on what the employee knew or reasonably should have known raises concerns about basic fairness.¹⁰⁷ The facts of a given claim, the details of medical treatment, and the laws generally governing workers’ compensation are already sufficiently complex as to require review by the Iowa Supreme Court.¹⁰⁸ The majority acknowledges that employees are “ordinarily laypersons without the expertise necessary to make accurate determinations regarding medical causation.”¹⁰⁹ It is unrealistic and incongruous to deny an employee’s claim for reimbursement on the basis of what they knew or should have known about whether their care is still authorized when the Court itself is skeptical of their ability to understand their situation.¹¹⁰ Employees simply are in a far weaker position than employers—who have access to medical records and undoubted-

⁹⁹ *See id.*

¹⁰⁰ *See id.*

¹⁰¹ *See id.* at 776, 781 (majority opinion).

¹⁰² *See id.* at 776.

¹⁰³ *See id.*

¹⁰⁴ *See id.* at 782 (Hecht, J., dissenting).

¹⁰⁵ *See id.* at 776 (majority opinion).

¹⁰⁶ *See id.* at 781, 783 (Hecht, J., dissenting).

¹⁰⁷ *See id.*

¹⁰⁸ *See id.* at 763–64, 779 (majority opinion).

¹⁰⁹ *See id.* at 778.

¹¹⁰ *See id.*

ly more experience dealing with workers' compensation—to understand the implicated complex rights and duties.¹¹¹

Such concerns as to an employee's ability to fully understand their rights and obligations are even more problematic for the non-native language speakers, immigrants, and low-income workers who already face significant obstacles in workers' compensation claims.¹¹² These vulnerable populations are already at a disadvantage understanding the English language, much less the intricacies of workers' compensation laws, yet the majority nevertheless holds them to an objective standard concerning what they should have known about their medical care.¹¹³ Holding these workers responsible for knowledge of the law is especially problematic given minorities often do not have access to legal representation.¹¹⁴ Furthermore, outside of the workers' compensation setting, minorities already have less access to healthcare, and the care they do receive is lower quality.¹¹⁵ Workers' compensation cases, where the health care costs are covered by the employer, offered some hope for minorities to receive better access to care, however the majority's decision makes it even harder for those who face the most obstacles in workers' compensation cases to get treatment for injuries they sustained on the job.¹¹⁶

CONCLUSION

The Iowa Supreme Court, in *Ramirez-Trujillo v. Quality Egg, L.L.C.*, chose to articulate a new interpretation of the workers' compensation statute contained in Section 85.27(4). Holding that the ambiguity of the statutory language permitted the court to insert its own interpretation, the court created a new basis for employers to deny liability in workers' compensation claims. The court ruled employers can avoid liability, despite their failure to provide notice as written in the statute, if they could show that an employee knew or reasonably should have known that the employer no longer authorized medical expenses. Rather than supporting the primary purpose of the statute—benefiting the worker—the new “employee knowledge” standard increases the already substantial advantages employers enjoy over their employees. In a dissenting opinion, Judge Hecht contested the creation of the new standard, argu-

¹¹¹ See *id.* at 783 (Hecht, J., dissenting).

¹¹² See Dembe, *supra* note 95, at 412.

¹¹³ See *id.*; *Ramirez-Trujillo III*, 878 N.W.2d at 778.

¹¹⁴ See Carrie Johnson, *Rights Advocates See 'Access to Justice' Gap in U.S.*, NPR: THE TWO-WAY (Mar. 10, 2014, 12:05 AM), <http://www.npr.org/sections/thetwo-way/2014/03/10/288225649/rights-advocates-see-access-to-justice-gap-in-u-s> [<https://perma.cc/J7LK-U54U>].

¹¹⁵ See AGENCY FOR HEALTHCARE RES. & QUALITY, *DISPARITIES IN HEALTH CARE QUALITY AMONG RACIAL AND ETHNIC MINORITY GROUPS 4* (Apr. 2011), <https://www.ahrq.gov/sites/default/files/wysiwyg/research/findings/nhqrdr/nhqrdr10/minority.pdf> [<https://perma.cc/U8CT-SKXS>].

¹¹⁶ See Dembe, *supra* note 95, at 412.

ing it was inconsistent with the clear language of the statute, created confusion and uncertainty in workers' compensation claims spawning litigation, and upset the balance of interests set by the legislature. Judge Hecht's concerns were well-founded. The majority's standard contradicts the court's own reasoning, further empowers employers at the expense of employees, and raises serious concerns about basic fairness. It is especially problematic for workers from minority populations as it creates additional obstacles for those who are already disadvantaged and most vulnerable to exploitation. The majority was fearful of employees being able to exploit the workers' compensation system and take advantage of their employers by receiving unauthorized medical care. The court's fears were unfounded as employers already possessed a surefire means of preventing unauthorized care— notifying the employee that they were no longer authorizing it. The majority overlooked this protection found expressly in the statute, instead inventing a new standard to solve a problem that did not exist. More troubling than overlooking the statutory language, somehow the Iowa Supreme Court managed to forget about the workers in workers' compensation.